STATE OF MICHIGAN

COURT OF APPEALS

In the Matter of ALICIA MARTINEZ PEREZ,
Minor.

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

SARAH JIMENEZ,

Respondent-Appellant.

UNPUBLISHED
July 17, 2007

No. 275699
Montcalm Circuit Court
Family Division
LC No. 06-000270-NA

Before: Meter, P.J., and Talbot and Owens, JJ.

PER CURIAM.

Respondent appeals as of right from the trial court's order terminating her parental rights to the minor child. We affirm.

In order to terminate parental rights, the trial court must find that at least one of the statutory grounds for termination under MCL 712A.19b(3) has been proven by clear and convincing evidence. *In re BZ*, 264 Mich App 286, 296; 690 NW2d 505 (2004). It is clear from the record that the trial court terminated respondent's parental rights under MCL 712A.19b(3)(i), (l), and (m). Although the trial court did not identify these subsections by number, it reiterated the statutory language of these subsections in rendering its decision. Contrary to respondent's argument, sufficient evidence was presented to terminate her parental rights under these subsections.

The evidence showed that respondent's parental rights to Jose and Nichole Hopkins were previously voluntarily terminated and her parental rights to Matthew Hopkins were involuntarily terminated. Jose and Nichole were removed from her care in August 2003 because of neglect, and respondent was given an opportunity to participate in services, which she failed to do. Respondent was given an additional opportunity to participate in services when Matthew was removed from her care, but she again failed to do so and ultimately moved to Florida, telling her caseworker that she had "given up" on Matthew.

Respondent contends that she was not provided adequate time to show progress before the trial court terminated her parental rights in this case and that there was no consideration given to reunification. Under the *Dittrick*[1] doctrine, or the doctrine of anticipatory neglect, "'[h]ow a parent treats one child is certainly probative of how that parent may treat other children.'" *In re AH*, 245 Mich App 77, 84; 627 NW2d 33 (2001), quoting *In re LaFlure*, 48 Mich App 377, 392; 210 NW2d 482 (1973). Accordingly, despite the fact that Alicia, the child at issue in this appeal, showed no signs of abuse or neglect, she came within the trial court's jurisdiction. *In re Gazella*, 264 Mich App 668, 680-681; 692 NW2d 708 (2005). Thus, the trial court was not required to look to the future and allow respondent an opportunity to complete another case service plan. Respondent had already failed to complete two case service plans regarding her previous terminations, she continued to be involved in a domestically violent relationship with Alicia's father and denied that domestic violence occurred, she lived rent-free in her sister's trailer, and had no stable source of income. Thus, contrary to respondent's argument, the evidence did not show that she was in a better position to parent Alicia than she was regarding her other children. Further, although respondent contends that the trial court failed to consider her cognitive deficiency, the record shows that she was previously offered special services, including occupational services to assist her with everyday life and one-on-one parenting classes in conjunction with her visits with Matthew. Her efforts to complete her service plan were characterized as "sporadic." Accordingly, the trial court did not clearly err in determining that the statutory grounds for termination were proven by clear and convincing evidence. MCR 3.977(J); *In re Trejo*, 462 Mich 341, 356-357; 612 NW2d 407 (2000).

Respondent also argues that the trial court failed to clearly enunciate its best interests determination. We disagree. MCR 3.977(H)(1) provides that a "court shall state on the record or in writing its findings of fact and conclusions of law. Brief, definite, and pertinent findings and conclusions on contested matters are sufficient."

The trial court clearly stated on the record its findings and conclusions regarding the child's best interests. Although not required to do so, the court looked to the factors at issue in child custody proceedings for determining a child's best interests. The trial court found significant that respondent voluntarily relinquished her parental rights to Jose and Nichole and "gave up" on Matthew, essentially abandoning him and moving to Florida. The trial court also found, based on the testimony presented, that respondent did not put her children first and was not able to support Alicia. Specifically, the court determined that respondent routinely depended on the welfare of others, that she was currently living in her sister's residence, and that her mother was providing for her because she was not actively employed. The court further determined, based on respondent's numerous changes of residence, that she was not able to provide a stable home environment and that she continued to be involved in abusive relationships and tried to hide the abuse from others. Finally, the trial court determined that respondent had failed to comply with services and complete a case service plan. These reasons support the court's determination that it was in Alicia's best interests to terminate respondent's parental rights and the trial court's best interest determination is not clearly erroneous. MCL 712A.19b(5); *In re Trejo, supra* at 354.

[1] *In re Dittrick*, 80 Mich App 219; 263 NW2d 37 (1977).

Respondent also argues that in order to comply with the Equal Protection Clause of the Fourteenth Amendment and the Americans with Disabilities Act (ADA), 42 USC 12101 *et seq*., petitioner was required to provide services to accommodate her cognitive shortcomings. Because respondent did not preserve this issue by raising it in the trial court, our review is limited to outcome-determinative plain error. *Kern v Blethen-Coluni*, 240 Mich App 333, 336; 612 NW2d 838 (2000).

Respondent's argument fails because the record reflects that she was provided special services because of her low cognitive functioning. Petitioner recommended occupational services for respondent to assist her with everyday life, which Michael Minarik, her former caseworker, described as "almost holding her by her hand, baby steps, to provide her very basic services to overcome this unexpected intellectual deficit." The case service plan developed as a result of respondent's psychological evaluation also required her to obtain a psychiatric evaluation, participate in individual counseling, and attend visitation and parenting classes. Minarik attempted to implement the services recommended in the evaluation, but respondent never obtained a psychiatric evaluation, failed to complete a full cycle of parenting classes, and attended only a minimal number of individual counseling sessions, providing inadequate excuses for her absenteeism. Minarik arranged for respondent's transportation to visits and one-on-one parenting classes, but respondent often refused to come out of her house when her transportation arrived. She was also provided a parenting aide to assist her in obtaining employment and housing. Despite the significant assistance offered respondent in light of her cognitive deficiencies, she failed to complete her service plan and her efforts were "sporadic." Thus, respondent has failed to establish plain error affecting her substantial rights.

Respondent next contends that the rule announced in *Crawford v Washington*, 541 US 36; 124 S Ct 1354; 158 L Ed 2d 177 (2004), should be extended to termination proceedings. Because respondent did not preserve this issue by raising it below, our review is limited to outcome-determinative plain error. *Kern, supra* at 336.

In *Crawford, supra* at 68, the Supreme Court held that the Sixth Amendment Confrontation Clause bars testimonial hearsay evidence against a criminal defendant unless the declarant is unavailable and the defendant had a prior opportunity to cross-examine the declarant. Respondent argues that this holding should be extended to termination proceedings. The Sixth Amendment, however, does not apply to termination proceedings, but only to "all criminal prosecutions." US Const, Am VI. Further, under MCR 3.977(G)(2), the rules of evidence, except with respect to privileges, do not apply in termination proceedings. Because the *Crawford* rule is not constitutionally required in termination proceedings, this Court lacks the authority to contravene this court rule and extend the rule announced in *Crawford* to termination trials. Therefore, respondent has failed to establish plain error.

Affirmed.

/s/ Patrick M. Meter
/s/ Michael J. Talbot
/s/ Donald S. Owens